

**THE BAY INSTITUTE * DEFENDERS OF WILDLIFE * ENVIRONMENTAL
DEFENSE FUND * NATURAL RESOURCES DEFENSE COUNCIL * PACIFIC COAST
FEDERATION OF FISHERMEN'S ASSOCIATIONS * WATER4FISH**

October 14, 2009

David Hayes
Deputy Secretary
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Deputy Secretary Hayes:

On behalf of The Bay Institute, Defenders of Wildlife, Environmental Defense Fund, Natural Resources Defense Council, Pacific Coast Federation of Fishermen's Associations, and Water4Fish, we are writing to provide input on the Department's charter for the National Academy of Sciences' review of science in the Bay Delta ecosystem. We agree, as the Administration outlined in its Sept. 30 letter to Senator Dianne Feinstein, that any National Academy study should look at: (1) whether there are legitimate options for protecting endangered fish and critical habitat, beyond the reasonable and prudent actions enumerated in the biological opinions; and, (2) how science could best be brought to bear on the Bay Delta Conservation Plan (BDCP) process. However, these issues must be pursued in the right context, with sufficient specificity, and with adequate time and resources, in order for an Academy study to be helpful and broadly accepted.

With that in mind, we strongly urge the Department to ensure that the National Academy explicitly ask whether there are alternatives that would provide equal (or greater) protection to endangered fish species and their designated critical habitat with lower water supply costs. Explicitly considering critical habitat would help ensure that this scientific review is more consistent with the requirements of the Endangered Species Act, and it should also help to provide more useful information on the ecosystem processes, flows, and water quality parameters that are necessary to sustain the Bay-Delta estuary and its endangered fish and wildlife species.

As far as the issue of how science can guide the BDCP, we strongly agree that the Academy study should not focus narrowly on reviewing the two recent biological opinions, but rather should look more broadly at the environmental needs of the Delta and the rivers that feed it, the impact of other stressors on the system, the likely impacts of climate change, an identification of data and research gaps that need to be addressed, and recommendations for an effective adaptive management program. Such a study could be very valuable in helping to develop a comprehensive resolution of resource conflicts in the Bay-Delta, guiding future decisions by the state and federal governments, and in particular by informing and strengthening the BDCP process prior to making the multi-billion dollar investments and major permitting changes that the BDCP has contemplated. However, in order to be valuable, any such study must answer specific, narrowly tailored questions, and the charter should therefore include very focused

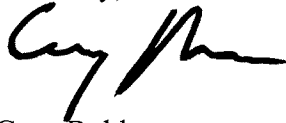
questions. One example might be, "What is the state of science regarding the role of ammonia in the decline of fish populations?"

As you know, our organizations strongly support the two recent biological opinions on the effects of joint operations of the state and federal water projects on salmon and other endangered species, which are essential to sustaining the thousands of fishing and other jobs that depend on the health of California's rivers and the Bay-Delta estuary. Both of these biological opinions already have undergone several rounds of internal scientific review and external, independent peer review, to ensure that they were based on the best available science. The National Academy study should build on this work, not just repeat it.

A study that examines the science used in BDCP and the biological opinions in the ways we describe above could provide additional scientific information in the near term that would help inform the BDCP process and other complementary efforts. However, the National Academy must be provided with adequate time and resources to conduct this study in a comprehensive and thorough manner, which we anticipate would require 12-18 months.

Thank you for consideration of our view. We look forward to continuing to work with the Department, the National Academy, and other stakeholders in developing this study, as well as in the federal government's reinvigorated efforts to restore the Bay-Delta's endangered fish and wildlife, the jobs that depend on them, and the reliability of the State's water supplies.

Sincerely,



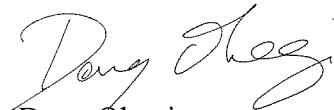
Gary Bobker
The Bay Institute



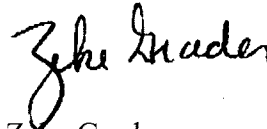
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